

"The COURT. In 5937, that is the same in each and every verdict of the seven cases. Do you gentlemen want me to read them all?"

"Mr. CELL. I don't think that is at all necessary."

"The COURT. Ladies and gentlemen, is that the verdict of the jury in each and every one of the cases in which you have returned verdicts, 5476, 5935, 5936, 5937, 5938 and 5939, is that the verdict in each and every one of those cases?"

"The FOREMAN. Yes, sir."

"The COURT. Thank you, ladies and gentlemen of the jury. Do you care to have the jury polled?"

"Mr. CELL. No, your Honor."

"The COURT. Record the verdict, Mr. Clerk, in the seven cases before the Court."

The jury returned a verdict in favor of the Government, and on November 29, 1949, judgment of condemnation was entered and the court ordered that the devices and the labeling be delivered to the Food and Drug Administration.

2988. Misbranding of Roll-A-Ray. U. S. v. 228 Cartons * * *. (F. D. C. No. 26076. Sample No. 8621-K.)

LIBEL FILED: November 18, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about February 11, 1948, by the O. A. Sutton Corp., from Wichita, Kans.

PRODUCT: 228 cartons each containing 12 *Roll-A-Ray* devices at New York, N. Y. Examination showed that the device consisted of a brown plastic molded case with handle attached. The case enclosed a light bulb and two rubber rollers placed at either end of the bottom part of the case. The rollers contacted the body for massaging purposes, and the light bulb furnished heat. A plastic grid was fitted over the bulb to protect the body from contact with the lamp.

LABEL, IN PART: "Roll-A-Ray Heat Massage With Infra Red."

NATURE OF CHARGE: Misbranding, Section 502 (a), the following label statements were false and misleading since heat and massage are not adequate treatments for the purposes represented: "For Home Reducing and an Aid in the Relief of Discomforts Arising from Rheumatism, Lumbago, Muscular Aches, Physical Aches * * * for Health and Beauty * * * to remove fatty tissues."

DISPOSITION: June 9, 1949. Elcord Products Corp., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the devices be released under bond, conditioned that each device be modified by removing the 60-watt bulb contained therein and replacing it with a 30-watt bulb; by placing a foil reflector on the inner portion of the device; by covering, removing, or destroying the labeling of directions and uses contained in the labeling of the device; and by using labeling approved by the Food and Drug Administration, so as to comply with the requirements of the law.

DRUGS FOR VETERINARY USE*

✓ **2989. Misbranding of Calfurdine. U. S. v. 2 Cans, etc. (F. D. C. No. 26384. Sample No. 28671-K.)**

LIBEL FILED: January 7, 1949, District of Utah.

ALLEGED SHIPMENT: On or about July 22 and August 5, 1947, by the Germ-O-Tone Laboratories, from Phoenix, Ariz.

*See also No. 2973.

PRODUCT: 2 5-gallon cans, 12 1-gallon jugs, 21 ½-gallon jugs, 28 1-quart bottles, 17 16-ounce bottles, and 65 8-ounce bottles of *Calfuridine* at Provo, Utah. Analysis indicated that the product was essentially a solution of calcium polysulfide and iodine.

NATURE OF CHARGE: Misbranding, Section 502 (a), the following label statements were false and misleading since they represented and suggested that the article when used as directed was effective in the prevention and treatment of disease conditions of poultry and animals, whereas the article when used as directed was not effective for such purposes: "*Calfuridine* * * * Directions: Chicks and Poult—Give one teaspoonful in each quart of Drinking Water Growing and Adult Chickens, Turkeys, Hogs, Cattle, Horses, Rabbits, Pigeons, Sheep, Fox, Mink—Give one tablespoonful in each gallon of Drinking Water Growing and Adult Dogs: Mix one-fourth to one-half teaspoonful (depending on age and size of dog) in ground, fresh meat—Give once daily. Wet Mash Treatment: If you have dew drop or continuous automatic water systems, or if poultry or livestock refuse to take it in the drinking water, mix wet mash as follows: Use two tablespoons to a gallon of water. Use this treated water to make a moist, crumbly mash and feed this at least two or three times daily, in amounts that will be eaten in about 5 minutes time. Keep all other feed away when this treatment is given—Give this treatment for at least 12 consecutive days—For Best Results Use Regularly."

DISPOSITION: On June 8, 1949, a motion was filed by the Germ-O-Tone Laboratories, claimant, for dismissal of the libel upon the ground that the libel failed to state a claim upon which the relief prayed for could be granted. On November 25, 1949, the motion to dismiss was heard by the court and denied. Thereafter the claimant filed an answer denying that the product was misbranded, which answer was subsequently withdrawn, and on January 12, 1950, judgment of condemnation was entered and the court ordered that the product be destroyed.

2990. Misbranding of Dr. Martin's Sulfadine, Dr. Martin's Sulfa Du, and Dr. Martin's Avizine. U. S. v. 168 Bottles, etc. (F. D. C. No. 27791. Sample Nos. 53533-K to 53538-K, incl.)

LIBEL FILED: August 26, 1949, Western District of Louisiana.

ALLEGED SHIPMENT: Between the approximate dates of December 21, 1948, and June 9, 1949, by the Hill Poultry Service, from Dallas, Tex.

PRODUCT: 168 bottles of *Dr. Martin's Sulfadine*, 247 bottles of *Dr. Martin's Sulfa Du*, and 473 bottles of *Dr. Martin's Avizine* at Shreveport, La., together with a number of leaflets entitled "Dealer price list February, 1949, Dr. Martin's Poultry Medicines," and a number of booklets entitled "Dr. Martin's Original Hydrochloride Liquid Sulfas."

Analyses of the products indicated that they had approximately the compositions stated on their labels. The bottles of the products ranged in size from 4 ounces to 1 gallon.

LABEL, IN PART: "*Dr. Martin's Sulfadine* * * * Sulfaguanidine * * * 18 gr. per fl. oz. * * * Directions: Add two tablespoonfuls (one ounce) to each gallon of all drinking water. For severe cases continue treatment for five full days," "*Dr. Martin's Sulfa Du* * * * Sulfathiazole * * * 22.2 gr. per fl. oz. * * * Directions: Add two tablespoons (1 oz.) to each